



March 21, 2011

VIA ECFS

Ex Parte Notice

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51

Dear Ms. Dortch:

Sorenson Communications, Inc. (“Sorenson”) submits this response to the letter CSDVRS, LLC (“CSDVRS”) filed in the above-referenced docket on March 17, 2011.¹ To borrow a phrase from that letter, Sorenson was “taken aback” by CSDVRS’s letter, which appears to have had no other purpose than to intentionally misconstrue and take a cheap shot at Sorenson’s good-faith explanation of its call detail record (“CDR”) system in a misguided attempt to smear Sorenson. At the same time, CSDVRS apparently admits that it continues to bill the Telecommunications Relay Service Fund (“TRS Fund”) for non-compensable “podcast” minutes. Sorenson urges the Commission to promptly investigate CSDVRS’s apparent admission that it regularly and intentionally submits requests for payment from the TRS Fund for calls to “podcasts.” Such calls do not involve “communication...with one or more individuals,” as required by statute to qualify as TRS,² and thus are not compensable under any circumstances.

Sorenson takes this opportunity to correct the record, rebut CSDVRS’s false allegations about Sorenson’s CDR system, confirm that Sorenson’s *actual* practices related to its CDRs use a combination of interpreter actions and automated checks to prevent the submission of non-compensable minutes, and highlight that CSDVRS’s own practices, as described in its letter, result in CSDVRS’s submitting non-compensable minutes for payment from the TRS Fund. In particular:

1. Sorenson measures all conversation time through automated means, based on call signaling, and has done so ever since it started providing VRS service in 2003;
2. Sorenson *never* permits Video Interpreters (“VIs”) to manipulate automatically-recorded “conversation” time;
3. Sorenson *never* permits VIs to manually mark calls for payment, and only permits VIs to manually mark calls for *non-payment* – which is necessary to protect

¹ *Structure and Practices of the Video Relay Service Program*, CSDVRS, LLC, Letter, CG Docket No. 10-51 (Mar. 17, 2011) (“Letter”).

² See 47 U.S.C. § 225(a)(3).

against submission of minutes for non-compensable content (such as Video Remote Interpreting (“VRI”), test calls or “podcasts);

4. Unlike CSDVRS, Sorenson *never* submits minutes for payment from the TRS Fund when its VIs manually mark that call as non-billable;
5. Unlike CSDVRS, Sorenson *never* submits minutes from “podcast” calls for payment from the TRS Fund.

CSDVRS misstates the content of Sorenson’s March 9, 2011, ex parte letter filed in the above-referenced docket, stating that Sorenson believes that its VIs “should be able to manually mark standard telephony events (such as busy and no answer) in the CDRs for payment or non-payment.”³ In fact, Sorenson VIs *never* have the option of coding calls for payment when Sorenson’s automated CDR system automatically codes a call as busy, no answer, or otherwise non-compensable. And unlike CSDVRS, once a VI has coded a call as non-billable, Sorenson’s management team cannot overturn that coding and render the call compensable.

To make the record clear, Sorenson’s automated CDR system uses automated signaling to determine when the VI is connected to both the hearing and deaf or speech disabled party, as well as when that connection terminates – *i.e.*, the starting and end points of conversation time – and has done so since Sorenson began offering VRS service. Sorenson automatically records all call times down to fractions of a second, and does not begin to count potentially billable “conversation” time until the deaf/hard-of-hearing individual is connected to the hearing individual through the PSTN and IP networks. Thus, CSDVRS is flat out wrong when it speculates that Sorenson is billing based on session time, or something other than the actual conversation time until the deaf/hard-of-hearing individual is connected to the hearing individual through the PSTN and IP networks. As noted in its March 9 letter, Sorenson has long advocated that the Commission adopt regulations requiring VRS providers to employ automated systems to record conversation and session start and end times to the nearest 1/100 second for all calls submitted for payment from the TRS Fund, and does so itself.⁴

Sorenson’s systems, however, do not stop with simply using automated recording of conversation time. Sorenson’s VIs do not have access to the CDRs – and thus cannot change the number of conversation minutes or the calling or called party number, or any other information – but only have the ability to add pre-designated codes to mark a call as non-billable. The point of Sorenson’s March 9 letter was that, in addition to automated recording of call times, it is also

³ Letter at 1.

⁴ See, e.g. *Structure and Practices of the Video Relay Service Program*, Sorenson Communications, Inc. Letter, CG Docket No. 10-51, at 1 (Mar. 9, 2011); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Sorenson Communications, Inc., Comment, CG Docket No. 03-123 at 60 (Oct. 30, 2006); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Sorenson Media, Inc., Comment, CG Docket No. 03-123 at 3-4 (Oct. 18, 2004).

important for VIs to be able to code calls as non-billable when they determine them to be non-compensable. No automated system can make judgments as to call content. Sorenson's VIs therefore have the option to manually code calls as *non-billable* in cases when its automated system would not necessarily detect such calls – e.g., test calls, VRI, dual relay communications, and “podcast” calls – as being non-compensable. With respect to the coding of “busy” and “no answer,” Sorenson's VIs do this on calls that *never incurred any conversation time because no connection was established to the receiving end of the call (i.e., the hearing party on a deaf-to-hearing call or the deaf/speech disabled person on a hearing-to-deaf call)*. These types of “manual” VI notations to the billing records *reduce* rather than increase billed minutes. If CSDVRS or any other provider lacks a mechanism to eliminate calls based on content, then they are likely overbilling the fund. VI coding is only the first of numerous “scrubs” that Sorenson makes to call minutes *to remove non-compensable minutes* before submitting them for payment from the TRS Fund. Sorenson also runs a number of other automated checks on its CDRs to ensure that it removes employee minutes, podcast numbers and other non-billable minutes before it submits its billable minutes to the Administrator.

In addition, unlike CSDVRS – which states in its letter that its management team reviews calls identified by its VIs as questionable, presumably submitting some of those minutes for payment from the TRS Fund – Sorenson *never* second guesses its VIs and submits for payment any minutes identified as questionable by its VIs. Sorenson believes that CSDVRS's practice increases the likelihood of CSDVRS's submitting non-compensable minutes for reimbursement from the Fund. Among other things, even if CSDVRS's management operates entirely in good faith and is not influenced by any incentive to increase revenues to reach targets or performance bonuses, by separating the list of questioned calls from the actual CDRs, CSDVRS would appear to increase points of failure: for example, if the management team does not intervene for any reason (such as a loss of the separate database list), the questioned minutes apparently could then be billed. This is not possible under Sorenson's system, which simply eliminates the call from the universe that may be billed.

Finally, CSDVRS states in the Letter that it “dispute[s] Sorenson's implied assertion that calls made to ‘podcasts’ are not compensable calls. The Commission has never ruled that deaf and hard of hearing people cannot use video relay to access recorded information...,”⁵ implying that CSDVRS *does* submit minutes from “podcast” calls to the TRS Fund for payment.

Indeed, Sorenson does strongly believe that calls made to “podcasts” are not compensable calls, instructs its VIs to code such calls as non-billable, conducts a post-call database screening to detect known “podcast” numbers, and has *never* since the Commission's 2010 Fraud Declaratory Ruling⁶ knowingly submitted such calls for payment from the TRS Fund. As CSDVRS alludes to, the Commission has explicitly stated that “calls to podcasts or other pre-recorded material...when initiated by or on behalf of VRS providers...” are not

⁵ Letter at 2, n. 2.

⁶ *Structure and Practices of the Video Relay Service Program*, Declaratory Ruling, CG Docket No. 10-51, DA 10-314 at 4, para. 6 (rel. Feb. 25, 2010).

compensable from the TRS Fund.⁷ However, *Congress* itself made it perfectly clear in the governing statute that “podcasts,” or any other calls to pre-recorded material, are *not, by definition, TRS* because they do not involve “communication by wire or radio with one or more individuals” (or, as the statute read prior to amendment by the Twenty-First Century Communications and Video Accessibility Act (“CVAA”), P.L. 111-260, “communication... with a hearing individual”), and are therefore never compensable from the TRS Fund.⁸

If CSDVRS is knowingly submitting minutes generated by calls to “podcasts” for payment from the TRS Fund, it is engaging in overbilling, and the Commission should take immediate action to stop that practice and to investigate CSDVRS’s previous submissions for payment for non-compensable “podcast” minutes. Sorenson also urges the Commission to investigate whether CSDVRS is submitting VRI minutes for payment from the Fund, as Sorenson is unaware of any post-call analysis that is capable of identifying that call type.

In closing, Sorenson reiterates its support for automation of the call duration aspect of the CDR, and for empowering – rather than second-guessing – VIs who identify non-compensable calls that an automated system may not detect. Sorenson is proud of its sophisticated, automated CDR system and its empowered VIs, and challenges CSDVRS or any other provider to implement such a system.

⁷ *Id.*

⁸ See 47 U.S.C. §255 (a)(3) (2009) (amended 2010). Prior to the CVAA, Section 225 stated:
The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to ***engage in communication by wire or radio with a hearing individual*** in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio...

(emphasis added).

The CVAA amended this definition to read:

The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to ***engage in communication by wire or radio with one or more individuals***, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

47 U.S.C. § 225 (a)(3) (emphasis added)

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Please contact me if you have any questions

Sincerely,

/s/

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